



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DATE: [REDACTED]

SURNAME [REDACTED]

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Date: NOV 11 2001

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were organized on [REDACTED] as a [REDACTED] public interest law firm. Your objectives are to educate attorneys and police officers and to protect the legal rights of victims of official corruption. You provide humanitarian aid to corruption victims, including but not limited to relocation assistance, medical expenses, shelter, security, and legal counsel.

Your articles of incorporation do not specifically limit your objectives to purposes charitable under section 501(c)(3) of the Internal Revenue Code. Your Existence and Dissolution clause provides that upon dissolution, all real and personal property shall be sold at auction to the highest bidder, proceeds from the auction and other funds shall be donated to a public charity chosen by the convened members by a simple majority vote. If a simple majority of the members cannot agree on a public charity, then the beneficiary will be the United States Department of the Treasury, Bureau of the Public Debt, or its lawful successor.

You conduct seminars on "green racism" and other topics. You will inform the legal community about these problems and their solution. You will charge an undetermined fee for the educational seminar and material. You stated "Since the attorneys will receive an educational benefit from seminar attendance and/or purchase of educational materials, their expenses in paying for said seminars and educational materials will not be deductible as charitable deductions."

You will litigate cases arising under 18 USC 1961 et seq., "The Racketeering Influenced and Corrupt Organizations Act (RICO)". Your members are entitled to paralegal, public relations, and investigative support in exchange for dues. You will also provide subsidized legal counsel when you raise sufficient funds to do so.

[REDACTED]

You contracted with [REDACTED] (a for profit corporation) to furnish group legal representation for your members. For [REDACTED] dollars a month, members receive unlimited telephone consultation with an attorney, along with various other benefits. You reserve the right to pay any participating member's monthly fee. [REDACTED] pays you commission of [REDACTED] dollars per month for each member who purchases their services.

Your select cases based on the following criteria:

- 1) There exist proof the charges of corruption are true.
- 2) The plaintiff is refused help by for-profit law firms.
- 3) The plaintiff's case is procedurally sound.
- 4) Funds can be raised within a reasonable time to make a [REDACTED] grant in the case.

You are involved in the litigation or investigation of the following cases:

1. The [REDACTED] cases. You are actively pursuing a major racketeering case in [REDACTED], which is being handled by [REDACTED], your ex-President and ex-Secretary, involving bribery and narcotics trafficking that took place within a courtroom and was captured on videotape. A sizeable settlement or judgement, possibly exceeding \$[REDACTED] is expected to result to the [REDACTED] and they intend to donate a substantial portion thereof to you to establish an endowment.

You maintain a Website [REDACTED] Information about the [REDACTED] cases are found on your Website, [REDACTED]. The stories are by [REDACTED] edited by [REDACTED]

You have provided litigation support to the [REDACTED] in the form of volunteer labor to copy, address, assemble and collate ninety-five (95) copies of their Complaint and file them in U.S. District Court, and in numerous technical conversations over the past three years between [REDACTED] and [REDACTED] regarding the interpretation of scientific evidence in the case.

You granted [REDACTED] dollars to benefit the [REDACTED]'s impoverished son [REDACTED] by funding a Motion for Reconsideration of his criminal case to the [REDACTED] Court of Appeals. [REDACTED] lent the money at [REDACTED] interest.

2. [REDACTED] (FOIA). You are attempting to determine the information surrounding alleged violations of the [REDACTED] Open Meetings act, cocaine use, a car chase and crash by the City Attorney, and the subsequent cover-up.

3. [REDACTED] (FOIA). Liquid toxic wastes are seeping from a city-owned landfill into the ground beneath nearby public housing. The City claims its sewage treatment plant cannot remove the material. You aver the city ought to stop dumping toxic wastes on land occupied by folks who cannot afford adequate legal representation to stop the practice.

4. [REDACTED] (FOIA) Similar to above, except for individuals drinking water have developed cancer.

5. [REDACTED] Involves immunity, based on a technicality, for an alleged murderer.

You anticipate that the majority of your income will come from donations and investment income. At present, the majority of your income is from interest-free loans by [REDACTED] (President and former Vice President) and from your members annual dues of \$[REDACTED] or a \$[REDACTED] a month commission from [REDACTED]

The recipient of any litigation grant from your organization shall have their choice of counsel. Therefore, it will be advantageous for the paying or nonpaying member to make optimal use of [REDACTED]'s litigation support services in preparing his or her case for presentation to their attorney of choice. If however, a grant from [REDACTED] is necessary and funds are available, the applicant will be free to retain any legal counsel of their choice who is willing to accept the case.

Members are encouraged to use your resources to strengthen their cases and then to market them to for-profit law firms and other charitable organizations. You stated "because paying members receive a benefit of litigation support, their dues are not deductible as a charitable contributions.

LAW

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(a) of the Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must both be organized and operated exclusively for one or more exempt purposes specified in such section. If an organization fails to meet either the organizational or operational test, it is not exempt.

The term "exempt purpose or purposes", as used in this section means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

Section 1.501(c)(3)-1(b) Organizational test (1) in general. (i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes

Section 1.501(c)(3)-1(c) Operational test. (1) Primary activities. An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private persons.

(D) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(b)(4) Distribution of assets on dissolution. An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Section 1.501(a)-1(c) defines "private shareholder or individual" as persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(2)(iii) of the Income Tax Regulations provides that it is a charitable purpose to promote social welfare by defending "human and civil rights secured by law."

Rev. Proc. 92-59, 1992-2 C.B. 411, sets forth guidelines for public interest law firms, including procedures under which a public interest law firm may accept fees for its services. Section 3 provides the general guidelines.

- 1) The engagement of the organization must reasonably be said to be in representation of a broad public interest rather than a private interest. Litigation will be considered to be in representation of a broad public interest if it is designed to present a position on behalf of the public at large on matters of public interest.
- 2) The litigation activity does not normally extend to direct representation of litigants in actions between private persons where the financial interests at stake would warrant representation from private legal sources.
- 3) The organization does not attempt to achieve its objectives through a program of disruption of the judicial system, illegal activity, or violation of applicable canons of ethics.
- 4) The organization files with its information return a description of cases litigated and the rationale for the determination that they would benefit the public generally.

5) The policies and programs of the organization (including compensation arrangements) are the responsibility of a board or committee representative of the public interest, which is not controlled by employees or persons who litigate on behalf of the organization nor by any organization that is not itself an organization that is not itself an organization described in section 501(c)(3) of the Code.

6) The organization is not operated, through sharing of office space or otherwise, in a manner so as to create identification or confusion with a particular private law firm.

7) There is no arrangement to provide, directly or indirectly, a deduction for the cost of litigation that is for the private benefit of the donor.

8) The organization does not accept fees for its service except in accordance with the procedures set forth in Sections 4 and 5 below.

9) The organization may not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office, no part of its net earnings may inure to the benefit of any private shareholder or individual, and no substantial part of its activities may consist of carrying on propaganda or otherwise attempting to influence legislation.

10) A public interest law firm may accept reimbursement from clients or from opposing parties for direct out-of-pocket expenses incurred during litigation.

Rev. Rul. 73-74, 1975-1 C.B. 152, provides that the recognition of public interest law firms as charitable is based on their legal representation for the resolution of issues of broad public importance where such representation is not ordinarily provided by private law firms because the cases are not economically feasible.

Rev. Rul. 75-74, 1975-1 C.B. 152, held that public interest law firms are charities only so long as they provide representation in cases of important public interest that are not economically feasible for the private firms. In the typical public interest case, no individual plaintiff has a sufficient economic interest to warrant the retention of a traditional law firm, and because the interested individuals are so varied and diffused, it is not practical to rely upon collective financing. The organization has engaged in "public interest" litigation in areas such as environmental protection, urban renewal, prison reform, freedom of information, injunction suits challenging governmental and private action or inaction, and "test" cases of significance to the public.

Rev. Rul. 75-76, 1975-1 C.B. 154, holds that the acceptance of fees awarded by a court or an administrative agency and paid by opposing parties does not preclude a public interest law firm that derives most of its support from contributions and grants from exemption under section 501(c)(3) of the Code. However, exemption would only be justified if it were clear that neither the expectation nor the possibility, however remote, of an award of fees is a substantial motivating factor in the selection of cases. In addition, the firm must cease to handle issues

[REDACTED]

with a strong possibility of a fee award if these become economically feasible for private litigants.

Rev. Rul. 86-98, 1986-2 C.B. 74 held an individual practice association that provides health services through written agreements with health maintenance organizations does not qualify for exemption from federal income tax.

Rev. Rul. 80-287, 1980-2 C.B. 185 held that a nonprofit lawyer referral service qualified for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. The organization is a nonprofit corporation created by several bar associations in a metropolitan area to provide a lawyer referral service. The lawyer referral service aids persons who do not have an attorney by helping them select one. Any member of the public in need of an attorney may visit or call the organization. The individual's problem is screened in order to categorize the area of law involved. From a list of attorneys maintained by the organization, an attorney specializing in the appropriate area of law is selected from within the geographic area preferred by the client. The organization arranges an appointment for the individual with the attorney. This initial appointment is for a minimum of one-half hour and the individual is asked to pay a nominal fee substantially less than the normal fee charged for a half-hour appointment. The attorney subsequently remits this fee to the organization. Any additional services performed by the attorney after the initial appointment are governed by a normal lawyer-client contractual relationship with which the organization has no connection.

It is a clearly established principle of the law of charity that a purpose is not charitable unless it is directed to the public benefit. Not every purpose, which is beneficial to the community, however, is deemed charitable. As a general rule, providing services of an ordinary commercial nature in a community, even though the undertaking is conducted on a nonprofit basis, is not regarded as conferring a charitable benefit on the community unless the service directly accomplishes one of the established categories of charitable purposes. Holding: The separately incorporated nonprofit lawyer referral service qualifies for exemption from federal income tax as a business league described in section 501(c)(6) of the Code. It does not, however, qualify for exemption as a charitable organization described in section 501(c)(3).

ANALYSIS

You are not organized and operated exclusively for charitable purposes. Your assets are not dedicated to an exempt purpose and you operate primarily for the benefit of your members. Therefore, you are not exempt under Section 501(c)(3) of the Internal Revenue Code.

Your articles of incorporation permit you to provide free legal representation to a designated individuals, [REDACTED], who are the sons of your ex-President and ex-Secretary. The majority of your time and resources has been devoted to litigation involving the [REDACTED]. You also reserve the right to pay any members legal fees with [REDACTED].

You fail the organizational test of section 1.501(c)(3)-1(b) of the regulations because your articles of incorporation do not limit your activities to one or more exempt purposes and they expressly empower you to engage in more than an insubstantial part of your activities which in themselves are not in furtherance of one or more exempt purposes.

Section 501(c)(3) of the Code states "an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals." The record indicates your income has inured to the benefit of a private party, [REDACTED]. You have loaned him twelve hundred dollars to pursue a case you are currently litigating. [REDACTED]'s parents have promised you a large endowment if they are successful in their litigation. In addition, the record indicates a large percentage of your resources have been consumed by the [REDACTED] litigation. (See Rev. Rul. 75-76).

You are not a public interest law firm within the guidelines of Rev. Proc. 92-59. You represent private interests rather than broad public interests. Rev. Rul. 75-74 held public interest law firms are charitable only so long as they provide representation in cases of important public interest that are not economically feasible for the private firms. Your goal is to help members strengthen and market their cases. You stated "Members are encouraged to use your resources to strengthen their cases and then to market them to for-profit law firms and other charitable organizations."

As in Rev. Rul. 86-98, your provision of legal services to members through [REDACTED] for a fee is not an exempt activity. As you have established in the record, members' dues are not deductible as charitable contributions because they receive a benefit of litigation support.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling

[REDACTED]

877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
[REDACTED] T:EO:RA:T:2
1111 Constitution Ave. N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(signed) Terrell M. Berkovsky

Terrell M. Berkovsky
Manager, Exempt Organizations
Technical Group 2

[REDACTED]